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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/398,156	09/16/1999	R. ERIC MONTGOMERY	1910/174	9712

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JOHN P. IWANICKI, ESQ.  
OF BANNER & WITCOFF, LTD  
28 STATE STREET  
BOSTON, MA 02109

EXAMINER

LEVY, NEIL S

ART UNIT PAPER NUMBER

1616

DATE MAILED: 02/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# BEST AVAILABLE COPY

## Office Action Summary

Application No.

398156

Applicant(s)

MONTGOMERY

Examiner

NE/Ley

Group Art Unit

1616

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- ☒ Responsive to communication(s) filed on 12/2/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1, 3, 4, 5, 7, 10, 21 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1, 4, 6-8, 11, 13, 14, 16, 18 & 20 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Receipt is acknowledged of RCE, amendment, and T.D. all of 12/02/02.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 6-8, 11, 13-14, 16, 18, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Boyer 5100651.

The rejection of 3/29/01 is reinstated. Note col. 1 of Boyer at lines 40-44 a mix of alkali metal salts with a cationic antimicrobial; sodium benzoate, sodium fluoride or phosphate, and bromchlorophene, respectively, is envisioned, applied to the surface (col. 2, line 23-32) of protein\_aceous carrier (col. 1, lines 57-59), of skin (col. 2, lines 7-13). The skin is then formed into a shape for chewing (col. 2, lines 33-38) called by inventor, a rawhide chew, Boyer's invention, although not so curtly named. Inherently the Boyer chew is of negatively charged rawhide, as applicants' is the same, unclaimed treatment to manipulate the rawhide.

Claims 14 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims appear to be duplicative of claims 9 and 13, respectively.

Applicant's arguments filed on 12/02/02 have been fully considered but they are not persuasive. Applicant's amendments and T.D. have resulted in reconsideration. Arguments are convincing, and withdrawal of rejections, as we agree, the rejections of record now neither anticipate or provide motivation for combination, in order to arrive at

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rawhide dog chews providing antimicrobial release in saliva. However, the Boyer reference does in fact meet the instant invention as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on (703) 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.



Levy/LR  
February 10, 2003

NEIL S. LEVY  
PRIMARY EXAMINER